

Huff, Gwen

From: Osann, Ed [eosann@nrdc.org]
Sent: Saturday, September 04, 2010 12:33 PM
To: Water Use Efficiency
Subject: FW: NRDC Process Water Comments - U5 Technical Workgroup
Attachments: DWR-Comment on U5 Process Water Draft Aug 23.pdf

This message, submitted yesterday, bounced back. Please accept this for the record of DWR's deliberations.

Ed Osann

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Sent: Friday, September 03, 2010 6:02 PM
To: 'Manucher Alemi'; 'cchorneau@ccp.csus.edu'
Cc: 'Ronnie Cohen'; Obegi, Doug
Subject: NRDC Process Water Comments - U5 Technical Workgroup

Attached are comments submitted by NRDC on DWR's August 23 Preliminary Draft Process Water Use Reporting Rule.

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NATURAL RESOURCES DEFENSE COUNCIL

September 3, 2010

To: Manucher Alemi, Chief, Water Use Efficiency Branch, DWR

From: Edward Osann, Senior Policy Analyst, NRDC

Re: Comments on August 23 Preliminary Draft Process Water Use Reporting Rule - U5 Technical Workgroup

This submission is on behalf of the Natural Resources Defense Council ("NRDC") and its approximately 250,000 members and activists in California. Below are comments regarding the preliminary draft process water rule dated August 23 that was discussed during the August 24 U5 subcommittee meeting.

Sec. 650. Applicability

Regarding paragraph (c), we do not object to the proposed conditional structure, whereby a threshold percentage is set for a supplier's industrial water use above which process water can be excluded from gross water use calculations, and, for a certain band below which, a water supplier can demonstrate it may also qualify for the ability to exclude process water. However, as we have noted previously, DWR's proposed threshold which considers "substantial" to be when industrial water use constitutes as little as 10% of total water use is far too low.

The intent of the law is to achieve a statewide 20% reduction in per capital urban water use by 2020. Thus DWR should exercise care to ensure that "substantial percentage" is defined at a level that allows process water use to be excluded only by those water suppliers for which industrial water use is clearly significant relative to non-industrial water use, rather than allowing for widespread deductions of process water.

We continue to recommend a requirement that industrial water use must be 20% or greater of total water use OR the contribution of industrial water use to gpcd must be greater than 20 gpcd. Additionally, in keeping with DWR's proposed structure, those suppliers for whom industrial water use is between 10% and 20% of total use should also qualify for an exclusion upon a specific showing that maintaining process water in the calculation of gross water use would produce a disproportionate burden upon non-industrial customer classes.

NRDC recommends a 20% threshold because when industrial water use is only 10% of total, retention of process water in gross water use calculations does not create a "disproportionate burden on another customer sector." DWR's analysis using CUWCC data indicated only approximately 6% of water suppliers provide more than 10% of their water to industrial water users, and for those that do, industrial water use contributes on average only 15 gallons to gpcd. For those water suppliers to achieve an overall 20% reduction, water users from other sectors

(non-industrial water users) would at most have to conserve an extra 3 gpcd (20% of 15 gallons) to achieve an overall 20% reduction. “At most” because this assumes no reductions occur in industrial water use, yet studies by the Pacific Institute and others have demonstrated there exist a multitude of opportunities for cost-effective water efficiency improvements in the industrial sector, including non-process portions of the sector, and thus it is unlikely the entire burden of savings stemming from the contribution of industrial water use to gpcd would fall on other customer sectors. In any event, an additional 3 gpcd is generally not much of a burden.

The handout previously provided by DWR shows that the transition point in the curve occurs when industrial water use contributes 20 gallons to the total gpcd. Water suppliers that fall to the right of this line might be considered the true ‘outliers’, i.e., those whose non-industrial customers might be disproportionately burdened.

With respect to the criteria under paragraph (c)(2) by which water suppliers whose industrial water use is below the threshold can qualify for an exclusion of process water, many of the exception criteria are irrelevant. Indeed, the efficiency of process water use is entirely irrelevant. There must be a showing, using criteria specified by DWR, that cost-effective opportunities to save water in the *residential* and *commercial* sectors and the *non-process portions of the industrial* sector have been or are likely to be exhausted, necessitating the implementation of economically or financially burdensome measures in non-industrial sectors in order to meet the 20X2020 savings target. This is the burden that the language of the statute is trying to prevent.

Thus, the degree of water use efficiency already in place is a reasonable factor to consider when determining if inclusion of process water use in gross water use would create a disproportionate burden on non-industrial sectors. NRDC has previously noted that inclusion of process water use may create more of a burden for non-industrial customers of those water utilities already at or below 100 GPCD, and we support this as criteria for exclusion of process water for suppliers with industrial water use of between 10% and 20% of total. However, for a supplier with GPCD levels above 100, the burden is on the supplier to demonstrate that remaining cost-effective savings opportunities are so limited as to force non-cost-effective expenditures upon non-industrial customers in order to achieve the supplier’s interim or compliance year savings targets.

Sec. 651. Definitions.

Paragraph (a), the definition of “commercial water user”, appears to be superfluous.

Paragraph (b), the definition of “disproportionate burden”, attempts to define “disproportionate” without defining “burden”. Taking cost-effective steps to save water does not constitute a burden. Thus, for a burden to exist, the lack of any cost-effective efficiency opportunities in the non-industrial sectors must be shown. It is important to track the structure of the statute, which seeks to avoid a disproportionate burden on *another*, i.e., a non-industrial, customer sector.

Sec. 652. Quantification and Verification.

To be faithful to the language of the statute, any water supplier that is otherwise eligible to exclude process water from its calculation of gross water use must, in order to avail itself of this

option, be able to document the amount of process water used during each year of the base period AND the amount of process water that was actually provided by the water supplier itself. In other words, for a supplier to exclude process water, it must know the volume of process water used and the relative share of process water that it supplied, since “gross water use” is limited to water entering the supplier’s distribution system and excludes industrial self-supplied water. Paragraphs (a), (b), and (c) must be more clear regarding acceptable forms of documentation.

Additionally, at the August 24th meeting, DWR very briefly solicited comments on a possible methodology for water districts to use in determining the amount of process water used by an industrial customer. As we understood it, the proposal was that the district would rely on some unidentified information to determine whether process water accounts for 90% or more of the facility’s water use, and that it would only require submetering if process water use accounted for less than 90% of the facility’s use.

NRDC has significant objections to this approach. Most importantly, the proposal provided no clarity as to what information a district could rely on in making its initial determination of process water use as a percentage of the facility’s water use. The proposal must establish standards that require accurate and adequate documentation of these assumptions, through submeter data, water audits, historic manufacturing output at the site, and equally accurate information. Such data must be assembled for each year of the base period, and not for an arbitrary 5-year period. Without such requirements, and given the ability to exclude process water from gross water use calculations, the regulation creates an incentive for suppliers to assume that industrial water use is comprised entirely of process water.

Unfortunately, DWR’s proposal regarding calculation of process water use was not distributed at the meeting, and we could not find it on the Department’s webpage. As such, we encourage DWR to provide time for a more thorough review following the final subcommittee meeting later this month.

Regarding paragraph (c) on how process water may be deducted from gross water use on a pro-rated basis for customers who also had self supplied water, all industrial self-supplied water should be assumed to be used for process water before any pro-rating of public water supply is applied. In the absence of submetered documentation to the contrary, it is entirely reasonable to assume that self-supplied water will be directed to process uses while potable water from a public supplier will be directed to sanitary and culinary uses on site, which are not eligible for exclusion.

Sec. 652.1. Existing Industries.

The meaning of paragraph (b) is unclear. A water purveyor should be able to *condition* financial and technical assistance to an existing industrial customer upon the use or adoption of water efficiency measures. However, the statutory language barring any *requirement* to implement such measures by ordinance or resolution is clear, and the draft rule appears somewhat inconsistent with the statute.